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Human Rights Committee

Concluding observations on the fourth periodic report of Portugal

Addendum

Information received from Portugal on follow-up to the concluding observations*

[Date received: 22 January 2015]

Introduction

Paragraph 9: [B2]: Additional information is required on the legislative amendment introduced in the Criminal Procedural Code which increased the scope of application of measures alternative to imprisonment and on measures taken to reduce the length of investigations and legal procedures, improve judicial efficiency and address staff shortages. In addition, statistical data should be requested on:

1. There is no additional information on this subject.

(a) The average length of pretrial detention in the past three years, disaggregated on the basis of gender and grounds for detention; and

2. There is no data on the average duration of pretrial detention.

(b) The number of individuals held in pretrial detention in the past three years.

On 31 December 2012, there were 13,614 detainees, of which 2,661 (19.5 per cent) were pretrial detainees (1,647 Portuguese men, 810 foreign men, 127 Portuguese women and 77 foreign women). On 31 December 2013, there were 14,284 detainees, of which 2,590 (18.1 per cent) were pretrial detainees (1,596 Portuguese men, 738 foreign men, 166 Portuguese women and 90 foreign women). On 31 December 2014, there were 13,996 detainees, of which 2,328 (16.7 per cent) were pretrial detainees (1,511 Portuguese men, 606 foreign men, 134 Portuguese women and 77 foreign women).

* The present document is being issued without formal editing.

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Paragraph 11: [B1] Regarding the overcrowding in prisons, the Committee takes note of the investment plan aimed at the requalification and extension of prison facilities, but requires updated information on its progress and on the creation of new places in prisons.

3. On 1 January 2014, the overall occupancy rate of the prison system was 116.2 per cent (16.2 per cent overcrowding) or, on a daily basis, i.e. not including detainees subject to weekend detention, 112 per cent (12 per cent overcrowding). On 31 December 2014, the overall occupancy rate was 109.9 per cent (9.9 per cent overcrowding). Without counting the detainees subject to weekend detention, it was 106.6 per cent (6.6 per cent overcrowding).

4. The work already concluded and those to be concluded in the prison system are the following:

Investment made and carried out since 2011 and those planned through 2015

Prison establishments	*Type of work*	*Investment*	*Places set up*	*Observations*
Angra Heroísmo	New			Financing: PIDDAC/OE
				Execution: Public work contract
		22 463 933	356	Status: Concluded
Alcoentre. Complementary Pavilion	Renovation and improvement			Financing: PIDDAC/OE
				Execution: Public work contract
		5 057 205	146	Status: Concluded
Leiria. Infante Santo Pavilion	Renovation and improvement			Financing: PIDDAC/OE
				Execution: Public work contract
		624 883	41	Status: Ongoing
Caxias. North Redoubt (phases 1, 2 and 3)	Renovation and improvement			Financing: Fund for the Justice Modernization
				Execution: Prison labour
				Status: phases 1 and 2 concluded, phase 3 ongoing
		489 500	235	
Vale Judeus. Adaptation of the kitchen to open regime premises	Renovation and improvement			Financing: Fund for the Justice Modernization
				Execution: Prison labour
		266 000	54	Status: Ongoing
Coimbra. Old Prison Pavilions	Renovation and improvement			Financing: Fund for the Justice Modernization
				Execution: Prison labour
		260 000	152	Status: Ongoing

Prison establishments	*Type of work*	*Investment*	*Places set up*	*Observations*
Linhó. Recovery of the Prison Wing	Renovation and improvement			Financing: PIDDAC/OE Execution: Public work contract
		1 353 000	114	Status: Concluded
Porto. Adaptation of the bathhouse to open regime premises	Renovation and improvement			Financing: Fund for Justice Modernization Execution: Prison labour
		77 921	34	Status: Concluded
S. José do Campo. Adaptation to a Prison Establishment, Phase 1	Renovation and improvement			Financing: Fund for Justice Modernization Execution: Prison labour
		829 717	38	Status: Signature of the contract
Total		**31 422 159**	**1 170**	

[B2]: Additional information is requested on measures taken, after the adoption of the Committee's concluding observations on 31 October 2012, to increase the availability of drugs and to address the high rate of HIV/AIDS and hepatitis C in correctional institutions.

5. As of 31 December 2013, 1,330 detainees were part of treatment programmes, with the following distribution:

Abstinence-oriented programmes

(a) Treatment in units free from drugs – 96

Structures and abstinence-oriented treatment programmes in the prisons

Prison establishment	*Capacity*	*Users as at 31 December 2013*	*Users in 2013*
Prison of Lisboa: Wing G	39 beds	31	45
Wing A	61 beds	8	24
Prison of Tires	21 beds	20	39
Prison of Leiria	29 beds	13	29
Prison of Porto	16 beds	13	26
Prison of Stª Cruz do Bispo	17 beds	11	22
Total	**183**	**96**	**185**

(b) Outhouse (for ex-drug addicts; the average length of the stay is one year)

Prison establishment	*Capacity*	*Users as at 31 December 2013*
Prison of Caldas da Rainha a)	12 beds	0

(a) According to information provided by this prison, the outhouse has not been operational since 20 September 2010.

Pharmacological programmes

- Programme with Methadone – 1,127
- Programme with Buprenorfina (Subuxone) – 13
- Narcotic antagonist Programme – 37
- Programme with Suboxone – 57

Summary – Number of detainees in treatment programmes as at 31 December 2013

Total of detainees in pharmacological programmes, in coordination with the Portuguese Institute of Drugs (IDT)	768
Detainees in treatment programmes in prison facilities	466
Detainees in treatment programmes in drug-free units (ULD facilities)	96
Detainees in treatment programmes in outhouse facilities	0
Total of detainees in treatment programmes in prison facilities	562
Total of detainees in treatment programmes	1 330

Number of detainees with positive results for: HIV, Hepatitis B and Hepatitis C, as of 31-12-2013

Positive	*HIV*	*Hepatitis B*	*Hepatitis C*	*HIV + hepatitis B*	*HIV + hepatitis C*	*HIV + Hepatitis B and hepatitis C*	*Hepatitis B + hepatitis C*	*Total of detainees with an infectious pathology*
Men	300	201	1 680	19	296	27	70	2 593
Women	33	35	69	9	12	2	9	169
Total of Detainees	333	235	1 749	28	308	29	79	2 762

Number of detainees that are positive only for HIV	333	2.4%
Number of detainees that are positive for hepatitis + HIV	365	2.6%
Number of detainees positive only for hepatitis B	236	1.7%
Number of detainees positive only for hepatitis C	1 749	12.4%
Number of detainees positive for hepatitis B + C	79	0.6%
Number of detainees positive only for hepatitis	2 064	14.6%
Number of detainees with an infectious pathology	2 762	19.5%
Number of detainees being treated for HIV	458	69.5%
Number of detainees being treated for VHc	89	4.1%

[B2]: Concerning physical ill-treatment and other forms of abuse, additional information is required on the monitoring visits carried out by the Ombudsman in February and March 2013 and measures taken to address the deficiencies identified.

6. We consulted the Cabinet of the Portuguese Ombudsman (the Portuguese National Human Rights Institute with A-status according to the principles relating to the status of national institutions (Paris Principles)), which provided to us the following information:

> "The Ombudsman is aware of its special responsibility with respect to citizens who are deprived of their freedom, both in terms of addressing their complaints (almost 200, some collective, received during 2014, in an increasing path) and in assuring, through a scheme of visits, preventive action and remedies to the situations where the guarantee of rights is defective. This is the framework followed by several incumbents, encompassing the enactment of the reports made in 1996, 1999 and 2003."

7. Due to the appointment of the Ombudsman as head of the National Preventive Mechanism in the framework of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in May 2013, the subsequent visits to prisons were scheduled in this new capacity and had a strong preventive aim. During 2014, additional visits were made, several times, to the premises more frequently targeted in the complaints received or that offered more cause for concern. It was the case of the Prisons of Lisbon, Vale de Judeus, Monsanto, Linhó, Paços de Ferreira and Alcoentre.

8. The issues at stake were primarily those related to overcrowding, such as lodging, contacts with the outside world (including visits), food and beverage. Special attention was made to the analysis of the use of disciplinary power and the articulation between the prison's health services and the National Health System. The informality of the Ombudsman's activity meant that the vast majority of issues signalized were adequately dealt within the visit and with the local structures accepting the remarks and proposals made.

9. The complaints received were mainly about health care and disciplinary issues, together with the willingness of being transferred to another premise, namely, for family proximity and/or availability of occupation.

10. The enforcement of the Penal Execution Code and of the General Regulations of Prisons, on several subjects, has been the cause for more recent concerns, namely, in what relates to the clothing and phone communications admitted.

Paragraph 12 [A]: On the need to combat and prevent domestic violence, the Committee takes note of the legal amendments introduced in February 2013 in order to extend the concept of domestic violence and to regulate aspects on the prevention of and assistance of victims, but requires additional information on the impact of such amendments. The Committee also requires a copy of the legal amendments adopted after 31 October 2012.

11. In February 2013, further legal amendments were introduced to the Penal Code (to article 152, which individualizes the crime of domestic violence) in order to extend the concept of domestic violence to dating and other intimate relationships without cohabitation.

12. The amendments to the Penal Code extend the subjective scope of the punishment to the person who maintains or has maintained dating relationship with the victim, irrespective of their sex, sexual orientation and gender identity, both of the perpetrators and the victim. The goal is to protect the position of those who, although not living in a relationship of spouses or analogous, maintain or has maintained an affective, emotional and intimacy relationship with the perpetrator.

13. The amendment to paragraph 1 (d) of article 152 of the Penal Code consisted in the introduction of the adverb "namely" before the listing of categories of "persons particularly vulnerable" (on grounds of age, disability, illness, pregnancy or economic dependence) in order to open this list.

14. Before the 2013 amendment to paragraph 5 of article 152 of the Penal Code, the judge could decree, as an accessory penalty to the crime of domestic violence, the prohibition of contact with the victim, the expulsion from the common residence or workplace and the imposition of remote surveillance to the perpetrator. Since the 2013 amendment to this article, the decree of these accessory penalties became mandatory.

15. Furthermore, a number of provisions have been introduced to regulate aspects covered by the "Law on the prevention of domestic violence and on the protection of and assistance to its victims", adopted in September 2009. These include the recognition of the status of victim (to all alleged victims as soon as a domestic violence incident is reported); the urgent nature of domestic violence proceedings (a Constitutional Court decision of 2012 has underlined the urgent nature of these cases); the use of remote surveillance means to control perpetrators (mandatory since February 2013); the facility to assist victims with free-of-charge and easy-to-use devices, in direct connection with the police 24-hours a day; the possibility to arrest perpetrators even if not caught in the act; the introduction of the victim's right to redress; and the provision of legal, medical, social and labour support.

16. Finally, in February 2013, Portugal became the first country of the European Union to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

17. Regarding domestic violence, prison services are implementing the Programme for Domestic Violence Offenders (PAVD), which consists in a cognitive-behavioural orientation addressed to domestic violence offenders. This programme seeks to promote awareness and responsibility for violent behaviour, promotes the use of alternative strategies to reduce recidivism and may be applied to defendants/convicted persons under non-deprivation of liberty measures. Currently, it is being adapted so as to be applied in a prison context. From 1 January to 31 October 2014, a total of 572 defendants/convicted persons underwent an intervention, following the procedures set up in PAVD (from the Risk Evaluation Phase to the Prevention of Recidivism Phase).

18. In addition, it should be referred that, as regards the prohibition of contacts between the offender and the victim of domestic violence, the following are subject to electronic surveillance (geo-location technology):

Prohibition of contacts with the victim of domestic violence, through geo-location

In the scope of the coactive measure	*In the scope of the provisional suspension of the case*	*In the scope of the suspension of the imprisonment sentence*	*In the scope of ancillary penalties*	***Total***
156	5	16	89	**266**

[A] Concerning the National Action Plan against domestic violence and the measures taken to ensure that victims have effective access to complaint mechanisms, the Committee takes note of the adoption of the Fifth National Plan against Domestic and Gender-Based Violence 2014-2017, but requires updated information on its impact, in particular concerning measures taken to ensure that victims have the effective access to complaints mechanisms. In addition, please clarify the decrease in the number of complaints presented to police forces, which amounted to 31,235 complaints in 2010 and decreased to 27,318 in 2013.

19. According to the Council of Ministers Resolution that approved the Fifth National Plan against Domestic and Gender-Based Violence 2014-2017, the Commission for Citizenship and Gender Equality, must prepare, on an annual basis, an interim report on the level of implementation of the measures of the Plan. The interim reports shall also include an assessment of the level of fulfillment of the annual work plan, and report accordingly to the overseeing government member until 15 March every year.

20. For this reason, is not possible to give this information, at this stage. The first interim report on the National Plan will be available only in 15 March 2015. For more information, go to www.cig.gov.pt/wp-content/uploads/2014/06/CIG-VPNPCVDG_2014-2017_ENG.pdf.

[A] Concerning the rehabilitation of victims, the Committee notes the protocol signed in August 2012 by the Government and the National Association of Portuguese Municipalities to provide low-cost housing to victims of domestic violence upon leaving the shelter, but requires information on the implementation of this protocol. The Committee also takes note of the initiative of the Institute for Employment and Vocational Training to support victims of domestic violence in becoming financially independent, but requires information on the sustainability of this project and if the State party intends to continue with this initiative.

21. In total, 93 municipalities (30 per cent of all municipalities) adhered to the framework created by the abovementioned protocol, signed by the Government and the National Association of Portuguese Municipalities in 2012.

22. According to this protocol, the municipalities should take the initiative to include in its priorities the allocation of social housing to women victims of domestic violence at the time of departure from shelter; and evaluate the existence of low-cost rental housing to women victims of domestic violence, at the moment of departure from the shelter. The Commission for Citizenship and Gender Equality is currently undertaking an evaluation of the practical results of this protocol, whose first preliminary results will be available at the end of January 2015.

23. The Institute for Employment and Vocational Training has outlined strategies for public policies aimed at preventing and combating domestic and gender-based violence in order to:

- Deepen knowledge of the phenomena associated
- Prevent them
- Qualify the professionals involved
- Strengthen the network of support structures and compliance with victims

24. In the framework of the Fourth National Plan against Domestic Violence (2011-2013), the Institute for Employment and Vocational Training (IEFP I.P.) implemented, in April 2012, a measure aiming to support victims of domestic violence in becoming financially independent. An expert was nominated in each of the local IEFP I.P. offices, acting as a liaison officer between the institutions who support the victims and the public employment service.

25. Between 30 April 2012 and 31 December 2013, 615 victims were assisted by the employment services and 286 were integrated (152 were integrated in employment and training measures, 97 in other measures to promote their employability profiles and 37 were placed in the labour market).

26. In the Fifth National Plan to Prevent and Combat Domestic Violence and Gender 2014-2017 IEFP I.P. is responsible, in conjunction with other entities, for the

implementation of measure 29 to "consolidate and expand access to vocational training and labour integration for victims of gender violence/domestic violence".

27. Thus, following the previous plans, the intervention of the IEFP I.P. aims to prioritize care to victims of domestic violence through registering for employment, participation in technical interventions, routing and integration in active employment measures and training and placement in the labour market.

28. Between 1 January and 30 September 2014, 346 victims of domestic violence were assisted by the employment services and 216 were integrated (155 were integrated in employment and training measures, 35 in other measures to promote employability profile and 26 were placed in the labor market).